

# Mistakes That Can Cost You Your Guaranty

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*U.S. Small Business Administration*

# Presented By: Ethan W. Smith, Esq.

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We would like to thank Ethan for his time and providing information regarding his experience in lending and working on SBA loans from his perspective.

All opinions, conclusions, and/or recommendations expressed herein are those of the presenter and do not necessarily reflect the views of the SBA.



*U.S. Small Business Administration*

# Presenter



## **Ethan W. Smith**

Partner, Starfield & Smith, PC

Ethan W. Smith's areas of practice focus on government guaranteed lending, commercial lending, banking, real estate and commercial law. Ethan has closed thousands of government guaranteed loans nationwide.

*Starfield & Smith, P.C. is a boutique law firm specializing in all aspects of commercial lending, from origination through liquidation, for lenders nationwide. Starfield & Smith closes over \$150 million of commercial loans for its lender clients every quarter. For more information about Starfield & Smith, visit [www.starfieldsmith.com](http://www.starfieldsmith.com)*

# Closing Issues:

- ☐ Eligibility
- ☐ Improper PLP processing
- ☐ Program Integrity
- ☐ Verification of Financials
- ☐ Environmental
- ☐ Use of Proceeds
- ☐ Debt Refinance
- ☐ Collateral
- ☐ Insurance
- ☐ 912 Issues
- ☐ Equity Documentation



# Top Reasons for Repairs and Denials

## ☐ **Lien and Collateral Issues that Result in Missed Recoveries (Generally a Repair)**

- Failure to obtain required lien position
- Failure to properly perfect security interest
- Failure to fully collateralize loan at origination when additional collateral was available



# Top Reasons for Repairs and Denials

## ❑ **Unauthorized Use of Proceeds**

- Proceeds disbursed for purpose(s) inconsistent with the loan authorization or subsequent modifications without a business justification. (Could be a Denial if early default and improper use of proceeds caused the failure of the business)
- Same lender Non-SBA loan paid with PLP loan proceeds (preference)



# Top Reasons for Repairs and Denials

- ❑ **Early Defaults (Denial if determined to be reason for business failure)**
  - Missing or unsupported verification of required equity injection (includes verification of source in some cases)
  - Missing or unsupported documentation of verification of borrower financial information with IRS when financial information was relied on in lender's credit analysis



# Top Reasons for Repairs and Denials

## ❑ **SBA Loan Eligibility (Denial)**

- Ineligible franchise
- Ineligible loan purpose
- Ineligible loan recipient (loan to an associate of lender)
- Underwriting





# Questions?

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Thank You!

Ethan W. Smith, Esq.

[esmith@starfieldsmith.com](mailto:esmith@starfieldsmith.com)

**STARFIELD  
SMITH, PC**

ATTORNEYS AT LAW

1300 Virginia Drive  
Suite 325  
Ft. Washington, PA 19034  
P: 215-542-7070  
F: 215-534-9023

2600 Maitland Center  
Parkway, Suite 330  
Maitland, FL 32751  
P: (407) 667-8811  
F: (407) 667-0020

[www.starfieldsmith.com](http://www.starfieldsmith.com)

# Contact Information

## **SBA WV District Office**

- Rick Haney – 304.623.7449 or [Richard.Haney@sba.gov](mailto:Richard.Haney@sba.gov)
- Leo Lopez – 304.347.5220 or [Leo.Lopez@sba.gov](mailto:Leo.Lopez@sba.gov)

Or contact your local Lender Relations Specialist – [www.sba.gov](http://www.sba.gov)